

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANANT KUMAR TRIPATI,

Plaintiff,

v.

MARK W. HALE, DARIUS HOLMES,
DANIEL L. CONN, ELAINE J. GEDMAN,
JOHN M. FROEHLICH, THOMAS M.
LEHMAN, WEXFORD HEALTH SOURCES,
INC.; INSURANCE COMPANIES ONE,

Defendants.

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) Civil Action No. 2: 13-cv-00830
)
) United States District Court Judge
) Terrence F. McVerry
)
) United States Magistrate Judge
) Cynthia Reed Eddy
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MEMORANDUM ORDER

The above captioned pro se prisoner civil rights case was filed in this court on June 19, 2013 and was referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules of Court for Magistrate Judges.

Now pending before the Court are: (1) a MOTION TO DISMISS OR IN THE ALTERNATIVE TO TRANSFER VENUE (ECF No. 28) filed by all Defendants, with brief in support; (2) the March 2, 2015 Report and Recommendation (“R&R”) of Magistrate Judge Cynthia Reed Eddy (ECF No. 35); (3) the Objections to the R&R filed by Plaintiff on March 30, 2015 (ECF No. 38); and (4) PLAINTIFF’S MOTION TO ENTER DEFAULT AGAINST WEXFORD (ECF No. 39). Defendants have not filed a response to Plaintiff’s Objections, nor is such a response necessary, although Defendants have filed a response in opposition to Plaintiff’s motion for entry of default (ECF No. 40).

Magistrate Judge Eddy filed a 15-page R&R which thoroughly analyzed the issues in dispute between the parties. In summary, Magistrate Judge Eddy recommended that Defendants’

motion to dismiss be granted as to the individual Defendants, but denied as to Wexford Health Sources, Inc. (“Wexford”). She further recommended that the case be transferred to the United States District Court for the District of Arizona pursuant to 28 U.S.C. § 1404(a), after having analyzed the factors set forth in *Jumara v. State Farm Ins. Co.*, 55 F.3d 873, 879-80 (3d Cir. 1995). Plaintiff contends that footnote 4 of the R&R is incorrect as a matter of law. Plaintiff also opposes dismissal of the Individual Defendants and objects to the transfer of this case to the District of Arizona.

This Court fully agrees with the persuasive and well-reasoned analysis of Magistrate Judge Eddy. As to footnote 4, the R&R actually ruled in Plaintiff’s favor and recommended that Defendants’ motion to dismiss the state law claims against Wexford in Counts 2-14 be denied, albeit without prejudice. All claims against the Individual Defendants must be dismissed because Plaintiff did not plead any facts whatsoever regarding conduct or involvement by any of the Individual Defendants. Finally, the *Jumara* factors weigh heavily in favor of transfer of this case to the District of Arizona.

AND NOW, this 6th day of April, 2015, it is hereby **ORDERED, ADJUDGED, and DECREED** that: the MOTION TO DISMISS OR IN THE ALTERNATIVE TO TRANSFER VENUE (ECF No. 28) is **GRANTED IN PART** as to all of the individual Defendants and they are hereby dismissed from the case, **DENIED IN PART** as to Wexford Health Sources, Inc., and **GRANTED** as to the request to transfer this Civil Action to the United States District Court for the District of Arizona. The Objections to the R&R filed by Plaintiff (ECF No. 38) are **DENIED**. The March 2, 2015 Report and Recommendation of Magistrate Judge Cynthia Reed Eddy (ECF No. 35) is adopted as the opinion of the Court.

PLAINTIFF'S MOTION TO ENTER DEFAULT AGAINST WEXFORD (ECF No. 39) is **DENIED**, insofar as Wexford was not required to respond to Plaintiff's Amended Complaint until Plaintiff's Objections to the R&R were ruled upon.

The clerk shall transfer this Civil Action to the United States District Court for the District of Arizona **FORTHWITH**. Defendant Wexford Health Sources, Inc. shall file an Answer or otherwise respond to the Amended Complaint as directed by the United States District Court for the District of Arizona.

SO ORDERED this 6th day of April, 2015.

BY THE COURT:

s/Terrence F. McVerry
United States District Judge

cc: ANANT KUMAR TRIPATI
#102081
Arizona State Prison
Post Office Box 24401
Tucson, AZ 85734
Via US Mail

All counsel of record
Via CM/ECF